

Rule Ideas and Districts Regulatory Guidance Input from Dec. 17, 2010, [Meeting](#)

Input from the Drinking Water Advisory Work Group Stakeholders
Stakeholders meeting at the Norris Center, Austin, Texas on December 17, 2010
Additional comments may be submitted by stakeholders until January 17, 2011

Morning Session

Idea 1) 30 TAC Section 290.38(21)- Revise the definition of “distribution system” to clarify that the customer service lines are not included. A water utility’s responsibility stops at the customer’s meter and that the service line from the meter to the place of use (house) and should not be included as part of the distribution system. The proposed revision to the rule is underlined:

290.38(21) Distribution system--A system of pipes that conveys potable water from a treatment plant to the consumers. The term includes pump stations, ground and elevated storage tanks, potable water mains, and potable water service lines to the customer’s meter or property line and all associated valves, fittings, and meters, but excludes potable water customer service lines from the customer’s meter or property line.

Stakeholder’s input-

- *Insert: “or master meter” after the first “customer’s meter”.*
- *Don’t understand why property line is in it; suggest just use customer’s meter.*
- *Maybe add “or as defined by contract” to allow for flexibility between provider and customer.*

- *Add the term "owned by the District or system" before "to the customer's meter or etc."*
- *Will this definition still allow sampling at customer's hose bib? If not it would require the installation of additional sampling points within the system.*
- *Delete "or property line" – stick with the meter as cutoff*
- *Alternative to "property line": customer line connection to utility main if no meter.*
- *Consider easements – no fee ownership*
- *Not "customer's meter"; it is the water provider's .*
- *"From" to what after meter.*
- *Property line should **not** be used as the demarcation point*
- *Generally, this provision is a good idea – this should be clear that the utility is not responsible for customer's line.*
- *The rule should be clear that the water utility's responsibility stops at the meter.*
- *Utility responsible for the line to the meter and the meter itself – the line from meter is the customer's responsibility.*
- *Good idea.*
- *Be more clear – "Either meter or property line or is it the closer of the two" maybe "or property line if no meter" Important issue when reimbursing developer (considering.)*
- *We support this rule.*
- *Distribution system should be defined as follow: "If meter is removed should bacteriological testing be completed?"*
- *Our team views the proposed language as a clarification to the rules in the way that water systems have always interpreted the definition. Suggestion is to add after "to the customer's meter or property line"*

the language "as determined by the public water system." Another suggestion is to add "whichever comes first."

- We support the intent of this rule change, but the proposed language is contradictory. The change as drafted appears to stop the definition of "distribution system" at the meter, thus excluding it which is a great change, but then only specifically excludes the customer service line "from the meter" which thereby seems to leave the meter as part of the distribution system and canceling out the first change.*

Idea 2) 30 TAC Section 290.39(j)(1)(D)- Revise the way the TCEQ determines when a change to a public water system is not large enough to require TCEQ review. Currently the rules provide that plans are not required for additional distribution when it will result in the addition of less than 10% of the current number of connections.

290.39(j) Changes in existing systems or supplies. Public water systems shall submit plans and specifications for construction approval (~~notify the executive director~~) prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities. (~~Public water systems shall submit plans and specifications for the proposed changes upon request. Changes~~) Significant changes, including those made to an existing disinfection process at a treatment plant that treats surface water or groundwater that is under the direct influence of surface water, shall not be instituted without the prior approval of the executive director.

(1) The following changes are considered to be significant:

(A) proposed changes to existing systems which result in an increase or decrease in production, treatment, storage, or pressure maintenance capacity;

(B) proposed changes to the disinfection process used at plants that treat surface water or groundwater that is under the direct influence of surface water including changes involving the disinfectants used, the disinfectant application points, or the disinfectant monitoring points;

(C) proposed changes to the type of disinfectant used to maintain a disinfectant residual in the distribution system;

(D) proposed changes in existing distribution systems when the change is greater than 10% of the total length of the existing distribution system (~~capacity~~) or 250 connections, whichever is smaller; ~~(-)~~ involves installation of distribution system components that may violate required separation distance with potential health hazards; or results in the water system's

inability to comply with any of the applicable capacity requirements of §290.45 of this title;

(E) proposed replacement or change of membranes modules; and

(F) any other material changes specified by the executive director.

(2) Minor deviations from previously approved changes such as differing sizes or number of tanks or pumps, or sizes or lengths of transmission or distribution lines are not considered significant if they are constructed and installed in general conformance with the originally approved plans and do not result in a decrease in capacity or performance of the improvements initially approved.

(3) The executive director shall determine whether engineering plans and specifications will be required after reviewing the initial notification regarding the nature and extent of the modifications.

Stakeholder's input

- *Cities??*
- *Real problem is requirement that approvals needed to do simple changes – 10% or not.*
- *Sometimes Region wants work done and it is a 90 day job, but takes longer to get approval.*
- *Include change in materials for minor deviation list*
- *Other (2) changes covered by (31)?*
- *In lieu of plans and specs, submit letter description change for all changes.*
- *Generally, we are in favor of clarifying that 10% of total length is a trigger.*
- *Perhaps a better definition of “pressure maintenance capability” in (1)(A) is warranted.*
- *More specific about (F) definition.*
- *Would like to see length taken out because not proportional – smaller entity would be at a disadvantage financially – should just be connections not include length. Feel it will disadvantage small population areas.*

- *Add clarification that 10% rule applies on a per section basis. It is not cumulative.*
- *No issue.*
- *Define what a "system" is. Re: if a MUD is purchasing water from another MUD or Govt. agency, is the system the combination of both MUDS or just the MUD extending or modifying the "system".*
- *TCEQ review should not be required for distribution line increases based on connections; should be based on line length, increases greater than 10% (or minimum length) might want to consider line sizes.*
- *We support this rule.*
- *Our group doesn't see a problem with the change. Since the notification requirement has been removed, (j)(3) should be deleted. If you leave it in, it no longer makes sense. If you don't have to submit the notification, then you would have to change the chapter 293 rules that require an approval letter for bond issues for districts.*
- *We support the intent of this rule change, but believe it may not go far enough and still cause unnecessary work for the staff. There are many pws with only 250 to 300 feet of distribution line. Under the draft wording an extension of 30 or 40 feet would still require an engineer to submit plans and staff to review. We believe it would be prudent to set a minimum length like 100 feet for plans and specs to be submitted. Proposed language is highlighted below. We also believe paragraph 3 should either be deleted as no longer necessary or modified to allow the E.D. to allow innovative treatment techniques like the switch from free chlorine to chloramines with the need for rule exceptions.*
 - *(D) proposed changes in existing distribution systems when the change is at least 100 linear feet and greater than 10% of the total length of the existing distribution system, or (~~capacity~~) or 250 connections, whichever is smaller; involves installation of distribution system components that may violate required separation distances with potential health hazards; (,) or results in the water system's inability to comply with any of the applicable capacity requirements of §290.45 of this title (relating to Minimum Water System Capacity Requirements); and*
 - *(E) any other material changes specified by the executive director.*

- (2) Minor deviations from previously approved changes such as differing sizes or numbers of tanks or pumps, or sizes or lengths of transmission or distribution lines are not considered significant if they are constructed and installed in general conformance with the originally approved plans and do not result in a decrease in the capacity or performance of the improvements initially approved.
- (3) The executive director ~~may shall~~ determine whether formal exceptions to the rules or engineering plans and specifications will continue to be required for innovative treatments such as the change from free chlorine to chloramines or system modifications that become accepted engineering practice, but which are not currently approved in the rules—after reviewing the initial notification regarding the nature and extent of the modifications.

Idea 3) 30 TAC Section 290.44(i)- Revise water hauler tank requirements for disinfection of a tank that is not used for more than one month. Does a disinfection method for a water hauler tank need to be explicitly detailed in the rule and should a tank be disinfected every month if it is not used during the month? If you believe this is the case then does the language below capture this?

290.44(i) Water hauling. When drinking water is distributed by tank truck or trailer, it must be accomplished in the following manner.

(I) The tank shall be disinfected monthly and at any time that contamination is suspected. If the tank is not used for more than one month, it can be completely drained and sealed to prevent contamination and then disinfected immediately prior to use. Filling the tank for at least one hour with potable water with a free chlorine residual of at least 0.5 mg/L or, if chloramines are used as the primary disinfectant, a chloramines residual of 1.0 mg/L (measured as total chlorine) measured at the end of the holding time is considered adequate disinfection.

Stakeholder's input

- *Just say water needs to arrive holding adequate chlorine residual or safe for use (i.e. disinfected).*
- *Just require test to confirm.*
- *We are not sure why the Rule needs to be revised.*

- *Our suggested revision: "The tank shall be disinfected at least monthly or at any time that contamination is suspected."*
- *We support this rule change.*
- *Don't sample if tank is not in use.*
- *When new water is introduced it will have chlorine residual to disinfect "older" water.*
- *Good idea.*
- *No issue.*
- *No issue.*
- *No issue.*
- *The change is needed; however, this is unclear if it doesn't take an hour to fill the tank. The language instead should say "fill the tank and maintain at least a one hour holding time..."*
- *Revise the second sentence in 290.44(i) by replacing the word "can" with "should" so that it reads – "If the tank is not used for more than one month, it should be completely drained and..."*

Idea 4) 30 TAC Section 290.45(b)(1)(D)(iv)- Allow the use of variable frequency drive pumps instead of pressure tanks for pressure maintenance for small public water systems.

290.45(b)(1)(D)(iv) Minimum Water System Capacity Requirements: an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. If pressure tanks are used, a maximum capacity of 30,000 gallons is sufficient for up to 2,500 connections. For systems with fewer than 750 connections, variable speed pumps with pressure switches designed by a licensed professional engineer may be used in lieu of pressure tanks. An elevated storage capacity of 100 gallons per connection is required for systems with more than 2,500 connections. Alternate methods of pressure maintenance may be proposed and will be approved if the criteria contained in subsection (g)(5) of this section are met;

Stakeholder's input

- *If cheaper and doesn't require higher level license then good idea*
- *Less expensive - good*
- *More options – better*
- *Less maintenance – good idea*
- *We support this rule change.*
- *Why 750 connections? Is that ESFC or actual connections?*
- *May reference adequate disinfection (per city of Houston rep).*
- *May want to consider allowance of variable speed booster pumps because:
Energy efficient
Cost savings over long period
May be more efficient to operate*
- *We like this.*
- *Licensed P.E. requirement might be difficult to meet.*
- *Put “with pressure switches designed by a licensed professional engineer” in parentheses (i.e., set off from other language for readability).*
- *Future discussion should include eliminating elevated storage requirement.*
- *If not 1, recognize exemptions based on compliance with SB 361.*
- *We suggest broadening the flexibility to apply to industrial facilities that are public water systems because of service to individuals rather than connections. The number of individuals may be approx 2000.*
- *OK*
- *Maybe consider reduction in pressure tank capacity in lieu of variable speed pumps*

- *PE should be required to design whole system not just pressure switches.*
- *Engineers recommend to do this, but the concern is whether it's reliable. Pressure tanks give you a buffer until a generator or other source of power kicks in. If we're going to go with this language, need to add, "only if auxiliary power is available on-site." Funding and technical expertise are a limitation. Instead of 750 connections, should drop that down to 150 or 100 connections. 750 connections is not considered a small system.*

Idea 5) 30 TAC Section 290.46(f)- Allow the use of remote sensing devices instead of daily visits at small systems. Should remote sensing equipment be allowed in lieu of an on-site visit by the public water system operator?

290.46(f) Operating records and reports. Water systems must maintain a record of water works operation and maintenance activities and submit periodic operating reports. The executive director may allow public water systems that serve 250 or more connections to use data obtained from electronic or other remote monitoring equipment to satisfy some of these requirements in lieu of on-site visits by operators if public health will not be endangered. Systems that serve 250 or more connections using electronic or remote monitoring must perform at least two on-site visits each week that are at least two days apart.

(1) The public water system's operating records must be organized, and copies must be kept on file or stored electronically.

(2) The public water system's operating records must be accessible for review during inspections.

(3) All public water systems shall maintain a record of operations.

(A) The following records shall be retained for at least two years:

(i) the amount of chemicals used:

(I) Systems that treat surface water or groundwater under the direct influence of surface water and groundwater systems that serve 1,000 or more connections or 3,000 or more people shall maintain a record of the amount of each chemical used each day.

(II) Systems that serve 750 or more connections or serve 2,250 or more people shall maintain a record of the amount of each chemical used 5 days each week with no more than one day between recordings of chemical usage.

(III) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of each chemical used on 3 nonconsecutive days each week with no more than two days between recordings of chemical usage. ~~(each day.)~~

(IV) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchased treated water shall maintain a record of the amount of each chemical used each week;

(ii) the volume of water treated:

(I) Systems that treat surface water or groundwater under the direct influence of surface water and groundwater systems that serve 750 or more connections or 2,250 or more people shall maintain a record of the amount of water treated each day.

(II) Systems that serve 750 or more connections or serve 2,250 or more people shall maintain a record of the amount of each chemical used 5 days each week with no more than one day between recordings of chemical usage.

(III) Systems that serve 250 or more connections or serve 750 or more people shall maintain a record of the amount of water treated on 3 nonconsecutive days each week with no more than two days between recordings of chemical usage. ~~(each day.)~~

(IV) Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water treated each week;

(iii) the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation;

(iv) the dates that dead-end mains were flushed;

(v) the dates that storage tanks and other facilities were cleaned;

(vi) the maintenance records for water system equipment and facilities; and

(vii) for systems that do not employ full-time operators to meet the requirements of subsection (e) of this section, a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of subsection (e) of this section.

(iii) the disinfectant residual monitoring results from the distribution system;

(iv) the turbidity monitoring results and exception reports for individual filters as required by §290.111 of this title (relating to Surface Water Treatment);

(v) the calibration records for laboratory equipment, flow meters, rate-of-flow controllers, on-line turbidimeters, and on-line disinfectant residual analyzers;

(vi) the records of backflow prevention device programs;

(vii) the raw surface water monitoring results must be retained for three years after bin classification required by §290.111 of this title;

Stakeholder's input

- *Site visits every 2 days should be considered if:*
 - *Redundant monitoring equipment meeting minimum specs is provided*
 - *Because:*
 - Saves money for supplying entity*
 - Fuel costs*
- *Clarify what "some" of these requirements mean in first paragraph – enumerated list.*
- *Less work seems like good idea.*
- *Agree with Changes.*
- *Might want to add clarity what type of remote sensing information will be required to be obtained.*
- *If we have remote sensing devices, 2 day visits may be too many.*
- *We are not in favor of this rule revision.*
- *The constituents we represent would never be comfortable with remote monitoring.*
- *750 corrections is a fairly good size system that warrants onsite physical inspection.*
- *Should pursue this option.*
- *SCADA is becoming more prevalent and cost effective.*
- *One concern is if SCADA is used for control, some clients who are not licensed operators may want to adjust controls.*
- *250 "of?" or 250*
- *Why can't less than 250 use electronic/remote equipment?*
- *Why can't visits be less frequent?*

- *If relying on electronic data, should be allowed to support alternative capacity exception.*
- *Can operator monitor from far away? Should be allowed.*
- *LIKE IDEA, but not way rule is written – need hard discussion with operators to make rule work – rules need to be realistic.*
- *We are not sure what the problem is.*
- *Generally, our group would like to allow some form of this. Population thresholds don't make sense. Under (II) and the following population thresholds, clarify "groundwater systems" that serve under 250, etc. Is there a reason to know the amount of chemicals used every day of the week? As long as the chlorine residuals are o.k., this shouldn't matter. If you're trying to use SCADA, then what's the reason for all these required visits?*
- *We support changes to this section, but you must also change 290.110 Disinfectant Residuals to make it worthwhile (see below). If you have to make a daily visit to read chlorine rather than use a remote sensor, you might as well do the other readings in person. We also noted an inconsistency between Section (i) and (ii). Section (ii) should be changed to match section (i) by substituting 1000 for 750 as noted below.*
 - (ii) the volume of water treated:*
 - (I) Systems that treat surface water or groundwater under the direct influence of surface water and groundwater systems that serve 1000 ~~750~~ or more connections or 2,250 or more people shall maintain a record of the amount of water treated each day.*
 - (II) Systems that serve 750 or more connections or serve 2,250 or more people shall maintain a record of the amount of water treated 5 days each week with no more than one day between recordings of water treated.*
- **§ Section 290.46 (f)(3)(E) – should also be changed.** *A requirement to keep customer service inspections for 10 years is really burdensome and not necessary. Over that long a time, there is no way to know if a customer has modified their plumbing so the paperwork is pretty meaningless.*

Idea 6) 30 TAC Section 290.46(i)- Revise the plumbing ordinance language. This would be a word change to title line to either drop the word “ordinances”, or use “practices” instead to clarify the requirement because not all public water systems have ordinance authority.

290.46(i) Plumbing practices (ordinance). Public water systems must adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted. See §290.47(b) of this title (relating to Appendices). Should sanitary control of the distribution system not reside with the purveyor, the entity retaining sanitary control shall be responsible for establishing and enforcing adequate regulations in this regard. The use of pipes and pipe fittings that contain more than 8.0% lead or solders and flux that contain more than 0.2% lead is prohibited for installation or repair of any public water supply and for installation or repair of any plumbing in a residential or nonresidential facility providing water for human consumption and connected to a public drinking water supply system. This requirement may be waived for lead joints that are necessary for repairs to cast iron pipe.

Stakeholder’s input

- *Legal Issue.*
- *Seems Fine.*
- *This is a “no-brainer”.*
- *The word “ordinance” should be dropped.*
- *We support dropping “ordinances” and replacing it with “practices” in title only.*
- *We support this rule change.*
- *No comment.*
- *Agree with change.*
- *City of Houston wants to add separation distances.*

- *Change to: Public water systems must adopt a adequate plumbing ordinance, regulations, order, or service agreement with enforceable provisions that prohibit cross-connections and other unacceptable plumbing practices are permitted.....Pipes and pipe fittings that contain more than 8% lead or solders and flux that contains more than 0.2% lead are prohibited for installation or repair of any public water supply system and for installation or repair of any plumbing in a residential or nonresidential structure providing water...*
- *We like this change.*
- *Also, clarify "enforcement", e.g. may include cut off or extra charges, but private utilities do not have the same "enforcement" capacities as cities, for example.*
- *Instead of the word "practices" use "requirements".*
- *Language should be "establishing and implementing" adequate practices instead of "regulation." Suggest the term "plumbing requirements" instead of "plumbing practices." Also change to "implementing adequate requirements" instead of "enforcing adequate requirements."*

Idea 7) 30 TAC Section 290.46(m)(1)- Currently, tank and pressure tank inspections must be done on an annual basis. Could inspections be required once every calendar year but not less than every 16 months?

290.46(m) Maintenance and housekeeping. The maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.

(1) Each of the system's ground, elevated, and pressure tanks shall be inspected once each calendar year but no more than 16 months apart (~~annually~~) by water system personnel or a contracted inspection service.

Stakeholder's input

- *OK*
- *16 seems arbitrary – more burdensome on larger utility.*
- *Should be more stringent*
- *No problem with rule.*
- *We think annual inspections are warranted.*
- *That said, it may be a good idea to allow some flexibility s that annual inspection does not require taking a system down in the summer months – allow a utility to get on a fall or winter inspection schedule.*
- *This language revision works.*
- *Rule should require re-inspection within 12 to 16 months from last inspection or some reasonable flexibility of time.*
- *In favor of change.*
- *We support this rule change.*
- *Will help to get TCEQ regions on “same page”.*
- *We like this change.*
- *OK*
- *Our group like this change for small systems.*

Idea 8) 30 TAC Section 290.46(p)(2)- Revise the submittal time for operators report and allow for a consolidated report for operators and operating companies that operate multiple public water systems.

290.46 (p) Data on water system ownership and management. The agency shall be provided with information regarding water system ownership and management.

(2) By July 31st of each year (~~On an annual basis~~), the owner of a public water system shall provide the executive director with a written list of all the operators and operating companies that the public water system employs. The notice shall contain the name, license number, and license class of each employed operator and the name and registration number of each employed operating company. The notice for entities that operate multiple public water systems can be consolidated into one notice. See §290.47(g) of this title.

Stakeholder's input

- *Rule should require submission of consolidated reports on a date specified by state.*
- *By July 31st each year, the owner of a public water system shall provide the executive director with a written list of all the operators employed by the owner or the/and operating companies that the public water system contracts with. The notice shall contain the name, license number, and license class of each employed operator and the name and registration number of each contracted operating company.*
- *OK*
- *No comment except what is the significance of July 31st?*
- *Good idea*
- *We support the rule change.*
- *Change to September 1st deadline.*
- *We are in favor of making the reporting process as efficient as possible – to the extent that consolidated reporting is more efficient – we support this rule revision.*
- *We agree with consolidating annual reports. We recommend that all required annual reports be consolidated into one annual report, not just on this issue. For example, districts, water supply corporations, and IOUs are all required to submit annual reports. We agree with setting a date certain instead of just stating "annual basis."*

Idea 9) 30 TAC Section 290.46(s)(1)- Revise well flow meter calibration requirements from every three years to every three “calendar” years but no more than 42 months apart.

290.46(s) Testing equipment. Accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment or pathogen inactivation or removal processes must be used by the system.

(1) Flow measuring devices and rate-of-flow controllers that are required by §290.42(d) of this title (relating to Water Treatment) shall be calibrated at least once every 12 months. Well meters required by §290.41(c)(3)(N) of this title (relating to Water Sources) shall be calibrated at least once every three calendar years but no more than 42 months apart.

Stakeholder’s input

- *There is difficulty in defining calibrated, for new generation of meters, suggest “flow” accuracy measurement testing.”*
- *Testing once every 3 years to 3.5 years may not be frequent enough.*
- *Seems fine*
- *We support the proposed revision. “Every 36 months but no more than 37 months”.*
- *We support this rule change.*
- *This rule revision has little to no impact on our constituents – all of our constituents are calibrating meters at least annually.*
- *For very small systems, some leniency is warranted.*
- *OK*
- *Clarification as to why 42 months or 3 years would prefer 2 years.*
- *We like this change.*

- *Instead of "once every 12 months" state "once each calendar year but no more than 16 months apart" as proposed in Idea 7. Remove references to "notify executive director" and instead state "TCEQ" or "TCEQ staff" or "the Division." The regulated community reads this as sending letters/ notices to Mark Vickery.*
- *Revise the end of the last sentence to say "but no less than every 42 month" instead of "but no more than 42 months apart".*

Idea 10) 30 TAC Section 290.45(f)- Revise the supply requirements for a purchased water contract. The rules for purchase water contracts require a demonstration that the retail provider has an adequate water supply to meet TCEQ requirements. Should the rules be revised to allow the purchaser to rely on the provider's system capacity to meet the purchaser's capacity requirements?

290.45 (f) Purchased water systems. The following requirements apply only to systems which purchase treated water to meet all or part of their production, storage, service pump, or pressure maintenance capacity requirements.

(1) The water purchase contract must be available to the executive director in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated. For purposes of this section, a contract may be defined as a signed written document of specific terms agreeable to the water purchaser and the water wholesaler, or in its absence, a memorandum or letter of understanding between the water purchaser and the water wholesaler.

(2) The contract shall authorize the purchase of enough water to meet the monthly or annual needs of the purchaser when combined with any production capacity of the purchaser of other available sources of potable water, if any.

(3) The contract shall also establish the maximum rate at which water may be drafted on a daily and hourly basis. In the absence of specific maximum daily or maximum hourly rates in the contract, a uniform purchase rate for the contract period will be used.

(4) The maximum authorized daily purchase rate specified in the contract, or a uniform purchase rate in the absence of a specified daily purchase rate, plus the actual production capacity of the system must be at least 0.6 gpm per connection. If the purchaser cannot negotiate a contract which specifies the maximum authorized daily purchase rate, compliance will be determined based on the capacity of the wholesale provider to provide 0.6 gpm per connection for all of its retail customers plus its direct pressure purchased water customers.

(5) For systems which purchase water under direct pressure, the maximum hourly purchase authorized by the contract plus the actual service pump capacity of the system must be at least 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less. If the purchaser cannot negotiate a contract which specifies the maximum hourly purchase rate, compliance will be determined based on the ability of the wholesale provider to provide 2.0 gpm per connection or at least 1,000 gpm with the largest pump out of service for all of its retail customers plus its direct pressure purchased water customers.

Stakeholder's input

- *Purchaser should not have to have a contract which specifies an amount of capacity to be provided by supplier as long supplier can prove that they meet state requirements.*
- *Delete "If the purchaser cannot negotiatemaking hourly purchase rule" and just allow alternative compliance mechanism identified i.e. "Alternatives, compliance may be determined"*
- *Either don't have contract requirements or let public know what the number are you want to see – bottom line should be purchase system will be receiving water in manner that allows it to meet minimum TCEQ service requirements – needs may change over time.*
- *Don't necessarily need numbers in contract to protect public.*
- *Just provide default compliance mechanism if no specific contract or contract terms to rely upon.*
- *6 rule is confused with booster pump capacity
Booster pump capacity should only be for wholesale provided if 6 for purchaser
Could make (5) a separate start-alone rule*
- *Specify that "uniform rate" may be annual rate – not necessarily daily/hourly maximum rate.*
- *Generally, we are very supportive of this rule revision*
- *However, for very small systems (Texas Parks & Wildlife) the definition of a "connection" may need to be revised to something less than 0.6 gpm.*

- *Rule should be revised to apply in situations where a contract has been negotiated but the contract does not contain the specifics required by the rule*
 - *See suggestion above for (1) (LINED OUT paragraph 290.45 (f)(1) "in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated.")*
- *The suggestion for (2) is OK.*
- *We do not think suggestion for (4) or (5) are workable. They are impractical for regional water suppliers. Need more discussion.*
- *Any solution needs to address purchased public water systems at industrial facilities, etc., that do not have customers or typical water use.*
- *Direct pressure connections to wholesale providers should benefit from exceptions already granted to the wholesale providers, i.e. EST exceptions.*
- *Need to remove the requirement to "guarantee" water from exceptions/EPP/etc since no provider can "guarantee".*
- *Most wholesale provider contracts are based on gallons not connections. This has been an issue Re: meeting bond issue regs.*
- *Pursue these revisions creating flexibility for purchaser to demonstrate compliance BUT concerns over wholesaler responsibilities and what regulations will require of them, including situations where purchasers have no choice (CCN's) or effectively no choice.*
- *MODIFIED (4): The contract does not specify the maximum authorized daily purchase rate, compliance will be determined based on the capacity of the wholesale provider to provide 0.6 gpm per connection for all of its retail customers plus its purchased water customers (not including emergency water supply contracts)*

- *MODIFIED (5): If the contract does not specify the maximum hourly purchase rate, compliance will be determined based on the ability of the wholesale provider to provide 2.0 gpm per connection or at least 1,000 gpm with the largest pump out of service for all of its retail customers plus its purchased water customers (not including emergency water supply contracts).*
- *Depends on which side of the equation your on.*
- *Concern that this will put purchasers in untenable position with wholesalers, because it will force them to negotiate a contract or construct additional improvements. Either way it will cost considerable dollars.*
- *Generally, the group likes this. From the wholesaler perspective, as long as the wholesaler can provide maximum daily demand, it should be o.k. "Providing maximum daily demand" should be added as alternative language as a way to show sufficient capacity. Comment in regards to (f)(3) – It doesn't make sense to require that the contract provide how much water will be drafted on an hourly basis because no one's going to be out there checking this anyway. In (f)(5), after "1,000 gpm add "and be able to meet peak hourly demand,." for consistency with other rule language.*

Idea 11) 30 TAC Section 290.46(m)(4) and (6)- Currently there is no rule that sets a timeline for a public water system to repair leaks. Should there be a rule to set timelines for leaks to be repaired?

290.46(m) Maintenance and housekeeping. The maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.

(4) All water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids.

(A) Known system leaks of less than 0.5 gpm shall be repaired within ten working days.

(B) Known system leaks of more than 0.5 gpm shall be repaired within five working days.

Stakeholder's input

- *Repair duration should be based on the fact there was an identified leak. It should not be based on flow rate.*
- *Penalties should not be assessed if operator is taking reasonable effort to correct leaks.*
- *Cost to repair should be considered – see new TWDB process for water audits.*
- *Do not adopt these rule changes*
 - *How do you measure leaks?*
 - *Too problematic.*
- *How will the TCEQ enforce this?*
- *Is there really a problem? Are utilities really ignoring the system leaks?*
- *If this rule revision is necessary, it should apply to all leaks without regard to size.*
- *How do you determine less than or greater than 0.5gpm?*
- *Should TCEQ really be involved in water leaks?*
- *In favor of change.*
- *What is the penalty?*
- *Bad idea. There are too many unknowns.*
- *Repairs should be performed within a reasonable timeframe.*
- *This causes more problems than it solves.*
- *Unnecessary – should be subjective.*

- *What about leaks during natural disasters? Would there be a fine – unnecessary burden, more work than it should be.*
- *Is this a big problem?*
- *Add known “and reported”.*
- *As opposed to a specific time, it should state repaired as practically possible.*
- *Obviously, operator and water provider want to fix leaks as fast as possible*
- *Generally support timelines.*
- *Concern: that extenuating circumstances could cause delays for repair.*

Will non-compliance lead to fines?

- *0.5 gpm or less is a very slow leak, not a public health hazard. It may just be a valve leak for which you have to order a new valve which may not even come in within this time frame. The suggestion is to delete suggested (A) and (B) and instead require that systems have a plan in place to repair leaks, prioritizing based upon the size of the leak and what makes sense with the system's work schedule, ordering parts, etc.*
- *While we agree that leaks should not be allowed to continue indefinitely, setting a time limit based on the size of a leak is a very imprecise science. It just isn't possible to determine how much is leaking with that much precision. In practice, it does happen that very small leaks are often not cost effective to repair on set time schedule, because it can force use of resources to be reallocated from more pressing issues to meet some arbitrary deadline. Small leaks are usually repaired as a crew moves methodically thru various areas of a distribution system, not stopping whatever else they may be doing to go fix a small leak. Small leaks are the reality in water systems. None of them are truly water tight regardless of size. If staff believes a rule is necessary, we believe it makes more sense to put a provision that allows the ED to direct repair of a leak within a specified time if the ED believes it is significant.*
- *Our suggested changes are underlined below.*

- *On an annual basis, ninety percent (90%) of known system leaks of less than 0.5 gpm shall be repaired within ten working days.*
- *On an annual basis, ninety percent (90%) of known system leaks of more than 0.5 gpm shall be repaired within eight (8) working days.*

Idea 12) 30 TAC Section 290.42- Establish rule requirements for “innovative” treatment methods that are not currently included in rules and have to be approved through the exception approval process. Some examples include:

- the use of chloramines,
- requirements for plastic casing and piping,
- the use of bentonite,
- location of potable water storage tanks in relation to a residential OSSF,
- modifications to older tank roofs, and
- alternate devices for ground storage tank overflows
- Are there others that the stakeholders are interested in including?

Stakeholder’s input

- *Totally in favor of using chloramines not needing an exception.*
- *Additional idea: having to get an exception for more than 3 hydro tanks on a site for a municipality.*
- *Recognize compliance with SB 361 constitutes an elevated storage exemption.*
- *Recognize that point of use filters, etc. for aesthetic purposes only are not regulated under 290.42(g) innovative treatment that requires approval. Problem is public water systems at industrial facilities should be able to us in accordance with manufacturer’s instructions.*
- *Eliminate the waiver requirements for alternative pressure maintenance to elevated storage.*
- *Chloramine use should be allowed and permitted without special approval. And arsenic treatment systems (a standard chemical process).*

- For treatment technology that is already approved for a particular contaminant, such as through NSF 61, the ETV process, etc., there shouldn't have to be another full review process by TCEQ as though it hasn't been generally accepted. TCEQ should not require piloting for performance in these cases, but should still require some demonstration of capacity. Chloramines should be approved by rule and not as an exception. Add ozone and mix to the list.
- Has a P.E. design it? If so, probably OK.
- Make sure plans review folds are reviewing this; don't take realistic drinking water exceptions staff reviewed.
- Should not need state approval to use chloramines in system supplied by PWS that uses chloramines.
- Chloramines is not abnormal disinfectant.
- Just use AWWA standards – not special approval!
- Add biological de-nitrification filters to list.
- Take all processes out of the dual review – add to normal plan review.
- Treatment methods
- The use of chloramines
- Location of potable water storage tanks in relation to a residential OSSF,
- Alternate devices for ground storage tank overflows
- Add elevated storage tanks.
- Highest rating: chloramines
- elevated storage
- Chloramine treatment should be a standard accepted method of treatment in 290 rules.

- *Directional drilling of waterline (ITDPEpipe) crossings of channels and streams and the requirement to have a case pipe. Case pipe should not be required if certain pipe material and construction methods are used.*
- *The use of bentonite – what is the application?*
- *Location of potable water storage tanks in relation to a residential OSSF, - this should be exception.*
- *Alternate devices for ground storage tank overflows – what are alternatives to standard tank overflows?*
- *Rule for use of chloramines is presently one. It is absolutely shocking that chloramines regulation is handled by exception. In our view, the TCEQ has been “behind the curve” with respect to chloramines use.*
- *Elevated storage warrants should be made automatic by rule.*

Below are additional topics from Stakeholders for future guidance or rule ideas. The topics are in the order received and have not been prioritized.

1. *Chloramination*
2. *Ozonation*
3. *Direct supervision*
4. *Process control definition*
5. *Wholesale ACR*
6. *Boil water notice process*
7. *Protocol for connection counts*
8. *Process for calculation connections with seasonal communities*
9. *Discrepancy between 290.46 and 290.110 on MRDL “at all times”*
10. *Allowance for dual feed vs emergency power.*

11. *Plate settlers*
12. *Updates to backflow prevention and cross-connections.*
13. *Updates to sanitary control easement provisions and exhibit for approved easement plus exceptions*
14. *Requirement for monthly flushing in 290.46(e)*
15. *Elevated storage tank exception*
16. *PWS designation process for MUDs served by a Mask MUD.*
17. *Revise EST exception process: reduce requirements to allow exemption. Focus should be on emergency power in lieu of EST, not on a total system prove up (because such a prove up process is discriminatory to requestor's of EST exemption.*
18. *Elevated storage tank exceptions – problems with wholesale providers contracts and requirement to “guarantee” water to users, which is impossible*
19. *Revise rule stating only 3 hydropneumatic tanks per plant site. It is my understanding the rule is in place for mobile home parks.*
20. *Other EST Exception*
 - a. *Also need to coordinate with other (Bond) Dept. and use ESFC not connections.*

- b. Issues Re: Having to pay the expense of an EST exception (MUD) when the wholesale provider (City) has an EST exception and the delivery method is a direct pressurized tie (no air gap). The process is too costly and time consuming.*
- 21. Green initiatives – may be drainage, but needs to be considered.*
- 22. Generators*
- 23. Elevated storage exception*
- 24. Water supply volume exception vs. calculations specified as alternative capacity requirements 290.45(g)(2)(C). There needs to be an easier way to account for supply provided and stated rate (0.6gpm/connection) because of low flow plumbing fixtures throughout the system.*
- 25. New ground water rule clarification of invalidation process and public notification process – as a result of bad sample requirement of source issues vs. distribution system issues – total coliform rules.*
- 26. Update flows represented in 290.45 Table A: clarify rule for counting apartment units as # of connections – one apartment unit is not 1 ESFC. 290.38(10)*
- 27. Water re-use rules – Section 210*
- 28. Recognition of pressurized system interconnections that are normally closed, but could be opened during certain events/or extended periods of time.*

29. *General comments on Ch. 290: Elevated storage waivers should be allowed by defined rule that will make the current process much simpler and predictable. We do not object to submitting a report and modeling the water system, but the requirement for approval should be clearly defined and not subject to interpretation.*
30. *Plan review group should be able to grant exceptions as a part of the plan review process.*
31. *290.45(m)(1)(B) – 5 year request for inspection of hydropneumatic tanks and new tanks should be on a 10 year cycle vs. 5 years (maybe 10 yr., then 5 yr.)*
- a. In case – on 5 yr. – accept metal thickness measurement to determine interior coating soundness.*
 - b. Service pump capacity must be determined by pump curve vs a gpm/horsepower.*
 - c. 290.45(6)(2) – Line 3 – change “or if” to “and”*
32. *Eliminate special approval for elevated storage waivers.*
33. *If necessary – revise 30 TAC 290.43(g) and any other provisions of 290.42 as appropriate to clearly exclude from concept of regulated treatment processes, including innovative/alternate treatment processes, point of use treatment units used for only aesthetic purposes by nontransient, noncommunity public water systems as long as units and their use conform to ANSI standards,.*

34. *Circumstance of concern is POU units, installed by PWS "for aesthetic purposes only" at coffee bars, lunch rooms at industrial facilities that are public water systems.*
35. *Elevated storage tank requirement should be modified to allow (w/o the need of elevated storage tank variance submittal) alternative equipment to be included in water plants to substitute the need of ESTs.*
36. *Boil Water Notice requirements should be modified to give flexibility to executive director to approve alternative methods of notification to residents/users.*
37. *Minimum line size requirements should be removed if design of proposed water system can be modeled to provide adequate capacity meeting state requirements.*
38. *Consider language for alternative delivery review.*
39. *Remove requirement of exception to have a sanitary sewer control easement ordinance.*
40. *Boil Water Notice should not be required within 24 hours when the testing takes +/- 24hrs. 36hrs. is more reasonable.*
41. *Define population and method or calculation to determine population.*
42. *"For recordation Purposes, once TCEQ has approved water and/or sanitary plans have list of project online noting approval of plans.*
43. *What is the definition of process control? For example who can turn a valve?*

44. *Flushing dead ends – why every 30 days? Can it be changed to “as needed”. Some dead ends need to be flushed weekly; some every 60 days. In an age of water conservation flushing just because the rule is written this way, yet there are water quality problems, does not make a lot of sense.*
45. *Monitoring plans – adding connections. Does each individual addition require a modification of the entire plan? Can’t there be something that defines how often it needs to be revised for example once per year or as needed since some may not change?*
46. *Eliminate/modify variance for EST’s.*
47. *Relief on capacity requirements in supplier contracts.*
48. *Removal of arsenic treatment from exception process*
49. *Address issue of calculating minimum criteria for capacity for PWS’s receiving water from a regional water authority pursuant to a Rate Order and not a contract.*
50. *Can pumpage capacity in district, plus possible flow rate from RWA be used without contract? RWA’s have ability to increase or decrease flow any time.*
51. *290.46(q) Special precautions – 30 hours instead of 24 hours.*
52. *290.110(c)(4) Disinfection Residuals – Monitor disinfectant residual through remote sensing or change frequency.*
53. ***§290.41(c)(1)(C)*** *No water wells shall be located within 500 feet of animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent. Sewage plant effluent which has been treated to Type I reclaimed water standards and is authorized under 30 TAC §210 may be applied no closer than 50 feet from a public water system well.*

54. ~~§290.46(j)(3)~~ These customer service inspection requirements are not considered acceptable substitutes for and shall not apply to the sanitary control requirements stated in §290.102(a)(5) of this title (relating to General Applicability). Removing this will refine the distinction between what are public water systems and just connections to systems that do not have the authority to adopt plumbing ordinances and provide plumbing inspections.
55. This language needs to be added so that the applicability in the drinking water standards applies to the rules and regulations as well. **§290.39(o) General Applicability.** This subchapter shall apply to all public water systems as described in each section, unless the system meets the applicability exclusions found in §290.102.
56. Change definition of connection in 290.38(14). Capacity should be based on meter size, not based upon population or number of units served on the other side of the meter, to be consistent with the way that rates are supposed to be charged.
57. 290.47(h) – need to revisit the boil water chart. It needs refining for how it addresses the pressure situation v. the repair situation. Right now it's all left to TCEQ staff discretion. Boil water should only apply where the system has lost control of the situation.
58. 290.38 (60) - Remove the requirement of taking bacteriological sampling and chlorine residuals from the definition of "process control duties." You can teach these on the job.
59. Reconsider the monthly flushing of dead end main requirement. Remove this requirement and allow this to be based on maintaining water quality and a demonstrated flushing program. The monthly flushing requirement is a waste of water in many situations and is not consistent with conservation standards.
60. Disinfection of mains in 290.46(g) – There's a statement that says you can increase dose to 500 mg/L and reduce contact time to ½ hour, which is inconsistent with AWWA standards and the rule says you are supposed to comply with AWWA standards. There's an inconsistency within the rule. AWWA standards have been changed/ updated and the rule needs to be consistent with AWWA standards/ just cite to the standards. The comment for small systems is that it's easier for them if the standard is in the TCEQ's rules because they

aren't members of AWWA and don't keep current with these standards. The preference for small systems is that the TCEQ continually update their rules for consistency with the standards.

61. Section 290.45(c)- Transient Non-community systems require pressure tanks and service pumps. We have several systems with elevated storage. Suggest adding option for 35 gallons per connection elevated to suffice pressure maintenance requirements.
62. 290.45.f. (5) – Contract is required to provide for 2.0 gpm/connection service pump capacity, but TNC systems only require 1.0 gpm/connection service pump capacity. Suggest adding 1.0 gpm/connection for TNC systems.
63. §290.44 Water Distribution should really be revised to allow different numbers of customers on a specified line size for older systems under certain conditions. Many can meet the minimum flows and pressures with a 2 inch line if it is a fairly short run. See some ideas below.

64. **§290.44 Water Distribution**

(c) Minimum waterline sizes. The minimum waterline sizes are for domestic flows only and do not consider fire flows. Larger pipe sizes shall be used when the licensed professional engineer deems it necessary. ~~(It should be noted that the required sizes are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe.)~~ No new waterline under two inches in diameter will be allowed to be installed in a public water system distribution system. These minimum line sizes do not apply to individual customer service lines.

(1) _____ New Construction - The required sizes for new water systems are based strictly on the number of customers to be served and not on the distances between connections or differences in elevation or the type of pipe.

Attached Graphic

Figure: 30 TAC §290.44(c)

Maximum Number of Connections (inches)	Minimum Line Size
10	2
25	2.5
50	3
100	4

150	5
250	6
>250	8 and larger

(2) Existing Public Water Systems – Water lines in existing public water systems must comply with the requirements above unless the water system meets the following requirements. For a public water system installed prior to September 1, 2007, the following line sizes are required provided that the public water system also meets the following requirements:

(A) for dead end lines, the water system must be able to provide normal operating pressure at the end of the line of at least 40 psi and a minimum pressure of 35 psi at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection;

(B), the minimum line sizes in the attached graphic are required. If the system is intended to provide fire fighting capability, it must also be able to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

Attached Graphic

Figure: 30 TAC §290.44(d)

<u>Maximum Number of Connections</u>	<u>Minimum Line Size</u>	
<u>(inches) Maximum Line Length</u>		
25	2	1500
<u>feet</u>		
40	2.5	1500
<u>feet</u>		
75	3	
<u>1500feet</u>		
250	4	2500 feet
300	5	2500 feet
500	6	2500 feet
>250	8 and larger	

65. §290.45 Minimum Water System Capacity Requirements – please reconsider changing section (g) on alternative capacity requirements, especially (g)(4)(C). There are many issues for small systems. A small system operating effectively, but slightly below the required capacity limits should not be considered in violation while it collects 3 years worth of data. The ED should be allowed to grant interim exceptions.

(g) *Alternative capacity requirements. Public water systems may request approval to meet alternative capacity requirements in lieu of the minimum capacity requirements specified in this section. Any water system requesting to use an alternative capacity requirement must demonstrate to the satisfaction of the executive director that approving the request will not compromise the public health or result in a degradation of service or water quality. Alternative capacity requirements are unavailable for groundwater systems serving fewer than 50 connections without total storage as specified in subsection (b)(1) of this section or for noncommunity water systems as specified in subsections (c) and (d) of this section.*

(1) Alternative capacity requirements for public water systems may be granted upon request to and approval by the executive director. The request to use an alternative capacity requirement must include:

(A) a detailed inventory of the major production, pressurization, and storage facilities utilized by the system;

(B) records kept by the water system that document the daily production of the system unless the water system is not required to keep daily data under Section 290.46 (f). If the water system is not required to keep daily data under section 290.46 (f), the maximum daily demand and peak daily demand may be determined based upon the usage data required to be contained in monthly operating reports supplemented with other representative data such as daily data for a shorter, representative high use period. The executive director shall review representative data for a period of ~~(reviewed shall)~~ not ~~(be)~~ less than three years. An ~~(The)~~ applicant that is required to keep daily production data may not use a calculated peak daily demand;

(C) data acquired during the last drought period in the region, if required by the executive director;

(D) the actual number of active connections for each month during the three years of production data;

(E) description of any unusual demands on the system such as fire flows or major main breaks that will invalidate unusual peak demands experienced in the study period;

(F) any other relevant data needed to determine that the proposed alternative capacity requirement will provide at least 35 psi in the public water system except during line repair or during fire fighting when it cannot be less than 20 psi; and

(G) a copy of all data relied upon for making the proposed determination.

(2) Alternative capacity requirements for existing public water systems must be based upon the maximum daily demand for the system, unless the request is submitted by a licensed professional engineer in accordance with the requirements of paragraph (3) of this subsection. The maximum daily demand must be determined based upon the daily usage data contained in monthly operating reports for the system during a 36 consecutive month period. The 36 consecutive month period must end within 90 days of the date of submission to ensure the data is as current as possible. If the water system is not required to keep daily data under section 290.46 (f), the maximum daily demand may be determined based upon the usage data required to be contained in monthly operating reports for the system during a 36 consecutive month period supplemented with other representative data such as daily data for a shorter, representative high use period.

(A) Maximum daily demand is the greatest number of gallons, including groundwater, surface water, and purchased water delivered by the system during any single day during the review period. Maximum daily demand excludes unusual demands on the system such as fire flows or major main breaks.

(B) For the purpose of calculating alternative capacity requirements, an equivalency ratio must be established. This equivalency ratio must be calculated by multiplying the maximum daily demand, expressed in gpm per connection, by a fixed safety factor and dividing the result by 0.6 gpm per connection. The safety factor shall be 1.15 unless it is documented that the existing system capacity is adequate for the next five years. In this case, the safety factor may be reduced to 1.05. The conditions in §291.93(3) of this title (relating to Adequacy of Water Utility Service) concerning the 85% rule shall continue to apply to public water systems that are also retail public utilities.

(C) To calculate the alternative capacity requirements, the equivalency ratio must be multiplied by the appropriate minimum capacity requirements specified in subsection (b) of this section. Standard rounding methods are used to round calculated alternative production capacity requirement values to the nearest one-hundredth.

(3) Alternative capacity requirements which are proposed and submitted by licensed professional engineers for review are subject to the following additional requirements.

(A) A signed and sealed statement by the licensed professional engineer must be provided which certifies that the proposed alternative capacity requirements have been determined in accordance with the requirements of this subsection.

(B) If the system is new or at least 36 consecutive months of data is not available, maximum daily demand may be based upon at least 36 consecutive months of data from a comparable public water system. A licensed professional engineer must certify that the data from another public water system is comparable based on consideration of the following factors: prevailing land use patterns (rural versus urban); number of connections; density of service populations; fire flow obligations; and socio-economic, climatic, geographic, and topographic considerations as well as other factors as may be relevant. The comparable public water system shall not exhibit any of the conditions listed in paragraph (6)(A) of this subsection.

(4) The executive director shall consider requests for alternative capacity requirements in accordance with the following requirements.

(A) For those requests submitted under the seal of a licensed professional engineer, the executive director must mail written acceptance or denial of the proposed alternative capacity requirements to the public water system within 90 days from the date of submission. If the executive director fails to mail written notification within 90 days, the alternative capacity requirements submitted by a licensed professional engineer automatically become the alternative capacity requirements for the public water system.

(B) If the executive director denies the request:

(i) the executive director shall mail written notice to the public water system identifying the specific reason or reasons for denial and allow 45 days for the public water system to respond to the reason(s) for denial;

(ii) the denial is final if no response from the public water system is received within 45 days of the written notice being mailed; and

(iii) the executive director must mail a final written approval or denial within 60 days from the receipt of any response timely submitted by the public water system.

(C) For good cause, the executive director may grant interim exceptions to allow a public water system time to collect the necessary data to justify alternative capacity requirements.

64. §290.110 Disinfectant Residuals

(a) Applicability. All public water systems shall properly disinfect water before it is distributed to any customer and shall maintain acceptable disinfectant residuals within the distribution system.

(c) Monitoring requirements. Public water systems shall monitor the performance of the disinfection facilities to ensure that appropriate disinfectant levels are maintained. All monitoring conducted pursuant to the

requirements of this section must be conducted at sites designated in the public water system's monitoring plan.

(4) Public water systems shall monitor the disinfectant residual at various locations throughout the distribution system.

(A) Public water systems that use groundwater or purchased water sources only and serve fewer than 250 connections and fewer than 750 people daily, must monitor the disinfectant residual at representative locations in the distribution system at least weekly but no less frequently than once every nine [seven] days.

(B) Public water systems that serve at least 250 connections or at least 750 people daily, and use only groundwater or purchased water sources must monitor the disinfectant residual at representative locations in the distribution system at least 3 days each week. There must be at least two days between readings. [once per day].

(C) Public water systems that serve 750 or more connections or serve 2,250 or more people daily, and use only groundwater or purchased water sources must monitor the disinfectant residual at representative locations in the distribution system 5 days each week with no more than one day between readings.

(E) Public water systems that serve 1,000 or more connections or serve 3,000 or more people daily, and use only groundwater or purchased water sources must monitor the disinfectant residual at representative locations in the distribution system once per day.

(F) Public water systems using surface water sources or groundwater under the direct influence of surface water must monitor the disinfectant residual tests at least once per day at representative locations in the distribution system.

65. We still strongly recommend that you change/clarify the **Boil Water Rules** which are being consistently violated by cities, district, WSCs and IOUs because they are so outdated and unclear. BWN are such an important public health issue that the rules must protect public health, which they currently do not, and be clear enough that a pws can comply with them. In this age of technology, to not allow a reverse 911 call system to be used makes no sense at all. In addition, if a pws plans a repair which will result in a BWN and alerts its customers with a letter well ahead of time, to then require the pws to send them a letter to lift the BWN (if you start it with a letter you must lift it with a letter) is in no way customer friendly. Should we expect them to wait 2 or 3 days after everything is okay to know the BWN is lifted!! PLEASE RECONSIDER THIS ONE!!!!

Afternoon Session

Idea 1) 30 TAC Section 293.11(d)(7)- City consent is required under Water Code 54.016(d) to create a Municipal Utility District (MUD) inside of a city's extraterritorial jurisdiction (ETJ) however it is unclear if city consent is required for a MUD to annex land inside of a city's ETJ. Can a rule clarify whether a MUD must have a city's consent to annex land inside of the city's ETJ or should this be clarified by the legislature?

293.11 (d) Creation applications for TWC, Chapter 54, Municipal Utility Districts, shall contain items listed in subsection (a) of this section and the following:

(7) a certified copy of the action of the governing body of any municipality in whose corporate limits or extraterritorial jurisdiction that the proposed district is located, consenting to the creation of the proposed district, or consenting to the annexation of land, under TWC, §54.016. For districts to be located, or the annexation of land, in the extraterritorial jurisdiction of any municipality, if the governing body of any such municipality fails or refuses to grant consent, the petitioners must show that the provisions of TWC, §54.016 have been followed.

Stakeholder's input

- *Why is this a TCEQ issue?*
- *It seems like the annexation issue should be separate from creation.*
- *Change is not necessary based on current law. 293.11(d)(f) deals with creation.*
- *A district that hasn't been created cannot annex.*
- *It is unnecessary because it is not related to creation. Should go in different section.*
- *Agree consent is required by Tx Water Code.*
- *For cities over 5,000 this is vital, for any other city it is very important.*
- *Should start with rule.*

- *Just say no – makes no sense and really does not need to be a rule because it is not a TCEQ issue.*
- *See local Government Code 42.0425 – City consent is required for MUD to annex land inside of city's ETJ.*
- *No need for Rule to be annexed.*
- *To the best of our understanding, the rules are clear and consent is required.*
- *Not right place because this section applies to creation applicants.*
- *Local Government Code 42.0425(a) makes clear that consent is required for annexation in city's ETJ.*
- *Might want to reference Local Government Code 42.0425 – which requires City consent. Otherwise, No issue here with proposed rule.*
- *In the additional language use "addition" instead of "annexation".*

Idea 2) 30 TAC Section 293.11(c)- Specify by rule that the applicant proposing to create a Water Control and Improvement District must indicate in the creation petition if the proposed WCID will be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution.

(c) Creation applications for TWC, Chapter 51, Water Control and Improvement Districts within two or more counties shall contain items listed in subsection (a) of this section and the following:

(1) a petition as required by TWC, §51.013, requesting creation signed by the majority of persons holding title to land representing a total value of more than 50% of value of all land in the proposed district as indicated by tax rolls of the central appraisal district, or if there are more than 50 persons holding title to land in the proposed district, the petition can be signed by 50 of them. The petition shall include the following:

(A) name of district;

(B) area and boundaries of district;

(C) constitutional authority, indicate if the district will be created under either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution;

(D) purpose(s) of district;

(E) statement of the general nature of work and necessity and feasibility of project with reasonable detail; and

(F) statement of estimated cost of project;

Stakeholder's input

- *No objection to require specifications as long as allowed to choose both constitutional authorizations.*
- *We agree with the clarification.*
- *This rule revision is prudent – a petitioner should be required to clarify what constitutional authority upon which the petitioner is relying.*
- *Sounds good – better idea might be to change the names of the separate entities i.e. WCID IV & WCID XVI.*
- *No objection.*
- *Why does an applicant need to specify which? If both apply, then should be able to stat both.*
- *III, S2 only relates to drainage and roads, so if water or sewer is provided Art XVI 59 would apply.*
- *OK, but already required by Texas Water Code 51.104 and 51.121.*
- *OK – agree with change/addition.*
- *Delete the complete Section 293.11©(1)(C).*

Idea 3) 30 TAC Section 293.42(c)- For expedited bond applications, revise the rule to specify minor application deficiencies that may be corrected by the applicant will not disqualify the applicant from the expedited review process.

293.42 (a) Applicants shall submit all of the required data at one time in one package. Applications may be returned for completion if they do not satisfy the requirements and conform to the bond application report format.

(b) Applicants may qualify for an expedited review which entitles them to a commitment from staff to have a completed memorandum to the commission within 60 calendar days following submission of the application. In order to qualify for this expedited review, the applicant must submit a

bond application that complies with §293.43 of this title (relating to Application Requirements). The district's bond counsel, engineer, and financial advisor must also sign a certificate which is worded as shown on the form provided by the executive director. The certificate must state that the district's bond counsel, engineer, and financial advisor have reviewed the bond application, that the application is accurate and complete, that the application includes specific documents identified on the form, and that the district's financial status has reached the thresholds provided in §293.59 of this title (relating to Economic Feasibility of Project) as shown by its existing assessed valuation and completion of facilities. If the executive director finds the documentation to be insufficient and the applicant can correct the deficiency within 48 hours of being advised of the deficiency, the expedited review will continue, however if the deficiency cannot be corrected within 48 hours, the application will not be expedited and an administrative review letter will be sent. A bond applicant that seeks conditional approval on the basis of receiving an acceptable credit rating or credit enhanced rating as provided in §293.47(b)(4) and (5) and (c) of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) may qualify for expedited review. A bond applicant that seeks approval on the basis of a ratio of debt to certified assessed valuation of 10% or less must provide evidence of that ratio as provided in §293.47(b)(3) of this title to qualify for the expedited review.

(c) Applicants may qualify for an expedited review which entitles them to a commitment from staff to have a completed memorandum to the commission within 45 calendar days following submission of the application. If the executive director finds the documentation to be insufficient and the applicant can correct the deficiency within 48 hours of being advised of the deficiency, the expedited review will continue, however if the deficiency cannot be corrected within 48 hours, the application will not be expedited and an administrative review letter will be sent. In order to qualify for this expedited review, the applicant must submit a bond application that includes all of the items listed in §293.43 of this title and the following

Stakeholder's input

- *May need to clarify "working days" because rule says 48 hours but guidelines say 3 working days. Bring conflict to attention.*
- *Three deficiencies should be the limit so it's not to burden staff and to keep professionalism in applications.*
- *Reinforce this in RG.*
- *The Regulatory Guidance document provides for a three day (72hr) cure period – the rule revision should be consistent with the Regulatory Guidance document.*

- *Faster way by email with confirmation system in place to ATTY & ENG that you have "a certain amount of day" to correct deficiencies or an official letter posted on IWUD Website – definitely a time frame.*
- *Minor deficiencies will be defined as deficiencies which can be corrected within 72hrs. If deficiency cannot be addressed in 72hrs. it is defined as a major deficiency and the application should be disqualified from the expedited review process. Minor deficiencies will not disqualify applications from the expedited review process. Does the proposed rule change include all terms specified in the R.G. prepared by ABHR. If not, please amend.*
- *Inconsistent with write-up of an item 4, #1 of guidance which appears to be better. So, we believe idea (3) as presented above is not as good as the ideas proposed as guidance documents Title "Guidelines for Curing Deficiencies During the Expedited Review of a Bond Application."*
- *Change 48hrs. to 3 Working Days. Adopt Guidance Document on this point as written. If the deficiency is corrected within the 72hr. period, the application must be reviewed on an expedited bases timeline.*
- *Adopt Guidance Document as Rule.*
- *Would request to change the response time to 72hrs. and also to not count weekend days – (workdays only).*
- *Rule should permit 72 hrs. and should specify "business" days.*
- *Revise the language in both places to say "and the applicant can correct(s) the deficiency within 48 hours of being advised of the deficiency, the expedited review will continue; however, if the deficiency cannot (is not) be corrected within 48 hours,...*

Item 4) TCEQ has seven Stakeholder proposed water district related Regulatory Guidance Documents that we are seeking input on, they are:

- 1. Curing Application Deficiencies**
- 2. Disputes with Bond Applications**
- 3. Fill Project Costs**
- 4. Impact and Connection Fees**
- 5. Imputed Maintenance Tax**
- 6. Parks and Recreational Facilities**
- 7. Reimbursement of Site Costs for 10:1 Applications**

Stakeholder's input

1. Curing Application Deficiencies

- *Generally great – in Para #4 add language “in the same manner and time period set forth in No.3 above” after “deficiency(ies) in Line 2.*
- *We support the adoption of the RG on “Curing Application Defects” as written.*
- *Makes the difference between expedited and non’expedited irrelevant. 4 should be deleted under 1. Step 2, technical review should include peer review and no (de).*
- *Also, again 5 deficiencies should be reduced to 3 so as to limit the burden on staff.*
- *Notice of Deficiency (NOD) needs to specifically cite rules justifying deficiencies noted so that we can respond accordingly.*
- *Agree.*
- *Good step forward.*
- *We agree with all RG’s and their presentation. Adopt as written! Implement immediately!*
- *In the last topic- Informal Communication Encouraged, revise the first sentence to say “In addition to written notice required hereunder, and to reduce paperwork, telephone calls and emails are encouraged from the TCEQ staff to applicants....in a bond application ~~are encouraged~~.”*

2. Disputes with Bond Applications

- *Support as written*
- *Support the adoption of RG on “Disputes w/ Bond Applications in current form.*
- *Disputes during bond app - on wording of anticipated denial – insert explanation of why it is going to be denied – i.e. a statement of the basis for denial including where possible the rule providing the grounds for denial.*
- *Also, there should be a minimal number (say \$1,000 per application so the small issues can be dealt with without this process). If it is \$1,000 or less per app, this does not apply.*
- *Denial of facilities need to reference and apply the rule in writing, i.e. denial needs to be supported in writing.*
- *General comment is that many disputes could be resolved with more communication b/w reviewer and applicant. “Preview Conference” could be an option or requirement.*
- *Adopt as written.*
- *Agree as written, no comment.*
- *What happens if the deficiency cannot be corrected in the time-frame.*
- *Does this apply to regular & expedited bond apps – Clarify.*
- *Mostly Concur.*

- *Increase 7 day to 14 days in order to call a special meetings of the board if needed.*
- *We agree with all RG's and their presentation. Adopt as written! Implement immediately!*
- *In the first sentence of the third paragraph, change the beginning of the sentence to say "Upon the publication of this regulatory guidance..."*
- *In the last topic- Timeline for Response to Recommendations, for both 1. and 2.- use the word "shall" instead of "will".*

3. Fill Project Costs

- *Support adoption in current form.*
- *The LID Guidance should apply to WCID's, otherwise, adopt as written.*
- *Agree – Good guidance*
- *Good idea.*
- *We agree with all RG's and their presentation. Adopt as written! Implement immediately!*

4. Impact and Connection Fees

- *Support adoption in current form.*
- *Adopt as written; reference to master district should include contracts with cities or other service providers.*
- *On page 3 of the guidance under "changes to connection and impact fees" add the term connection fees in sub paragraphs (1) and (2) where it only refers to impact fees.*
- *Additionally, the Guidance should add language such that impact fees required by cities are treated in the same manner. If that is covered in Chapter 395, great; but why not include the term "city" after political subdivisions, "or cities", in paragraph 1 and 2.*
- *Clarify is this water to water District only or does any part of this District relate to a developer in a water District that is also in a drainage District and pays fees.*
- *Make sure all parties understand last part where no use of funds is permitted unless \$ for ALL impact fees is shown. Otherwise, all good.*
- *Good as written.*
- *What happens if you don't have the \$.*
- *We agree with all RG's and their presentation. Adopt as written! Implement immediately!*
- *In all instances change the word "reservation" to "commitment".*

- In the very last sentence change the word “purchase” to “pay”.

5. Imputed Maintenance Tax

- Support adaptation in current form.
- Develop advance in budget is treated as if “in the book” if the agreement with developer allows those funds to be withheld from bond proceeds. Otherwise, adopt as written.
- In section for “Combined No Growth Tax Rate” after (i) add “projected” before “developer advances” in line 3; remove “Tap Fees paid to date and” after (ii).
- This appears to allow different ways to come to calculations. What goes in should be specific as too many variations would exist.
- Why exclude tap fees? And if excluding tap fees, they cannot be used as part of surplus.
- “Project Tap Fees” on monthly basis is not useful information. Why does it matter per month – annual is what matters.
- Developer Advances – does this cover a deficit that will allow for an artificially low maintenance tax; wouldn’t you need to look at a year after the maintenance tax.
- Strike for no growth because if you have a deficit this really does not provide useful information as it only covers it for one year.
- Concur.
- Revise the “Combined No-Growth Tax Rate” paragraph as follows:
“When... should not include (i) projected developer advances, (ii) ~~tap fees paid to date and~~ projected tap fees, ... bond application.”
- No growth operating analysis should consider cash in the bank at the time of analysis.
- Revise the “Combined No-Growth Tax Rate” paragraph as follows:
“When... should not include (i) projected developer advances, (ii) ~~tap fees paid to date and~~ projected tap fees, ... bond application.”

6. Parks and Recreational Facilities

- Good as written.
- Concur.
- We agree with all RG’s and their presentation. Adopt as written! Implement immediately!
- Concur

- Delete the word "minor" at top of page 2. So long as the bond issue requirement (BIR) doesn't change the plan may be changed. Delete "changes in project scope" in last line of same paragraph. Replace with "Change in BIR".
- Last paragraph, insert ",," (a comma) after greenbelts and an "of" after purchase in the second to last line.
- Wetlands which are an integral part of the drainage system, the land should be able to be financed with w, s, d bonds.
- Consider width less than 30! For example sidewalk/paths on roadways are generally located in 11' b/w back of curb and r.o.w. line. 30' is arbitrary and lesser widths provide the same functionality.
- We agree with all RG's and their presentation. Adopt as written!! Implement immediately!
- Support adaption in current form.
- Park plans looks OK. Distinguish that land is not facility, use the word land when referring to real property, is "site" then costs of land & dev cost? Or is a "site" just the land? The RG is unclear. We think that the intent is \$100,00 land & using only 10% of STP would mean \$10,000 of land cost can be reimbursed. The intent is not clear here.

7. Reimbursement of Site Costs for 10:1 Applications

- Concur.
- We agree with all RG's and their presentation. Adopt as written! Implement immediately!
- How does the district show ownership/title for the site/or portion of the site funded/purchased in the 10:1 bond issue.
- Does this create property tax questions with a portion owned by the District vs. portion owned by the Developer?
- Concur
- Ok on these guidance suggestions
- Adopt as written
- We agree with all RG's and their presentation. Adopt as written!! Implement immediately!!
- Support adoption in current form.

Below are additional topics from Stakeholders for future guidance or rule ideas. The topics are in the order received and have not been prioritized.

1. *Detention basin site costs (Clarification/Simplification)*
2. *Incorporate "Green Initiatives" for innovative Design Concepts.*
3. *Regarding (2) include addition of water quality features in regular bond issues – not parks bond issues.*
4. *Need rule revisions to clarify the low impact development and storm water quality are eligible as drainage facilities, not amenity or parks. Trees and plants are eligible as part of water, sewer and drainage.*
5. *The rules of the TCEQ allow 100% reimbursement to developers if the value to debt ratio is 10 to 1 or better. The rules allow approval of bond applications on a "contingent" 10 to 1 basis. Bond application approval is good for one year, which provides a timeline for achieving the 10:1.*
6. *The TCEQ staff is imposing time-lines on when the 10 to 1 should be achieved and in many instances, require the 10 to 1 prior to approval which is not in line w/the rule. No time is addressed in the rules. Julie Peak/First Southwest Company 713-654-8638.*
7. *Storm water costs during construction – permit 6 plan – are they now required to be bid. When are they escrowed when bonds are sold – to determine "reasonableness" We like this forum! Thank you*
8. *General Comment: 1) Elevated storage waivers are reviewed & approved based on physical connections; however, District Creations reviews bond applications based on ESFC's. This will often result in some confusion when it comes to defining the water facilities and components needed to support the development as provided for in the bond application. 2) Reimbursement for site bill should be considered for instances where regarding or filling a site with result in a cost savings for the district by reducing the site and extent of drainage infrastructure required for a specific area or site.*
9. *293.44(a)(18) – word "benefit" needs to be clarified to include financial or other benefits accruing to the district as a result of acquired facilities; benefit can be conclusively proven by resolutions of Board of Directors.*

10. *293.44(a)(20)(c) – provide that certification of engineer and financial advisor or Board of Directors fulfills requirements of this subsection.*
11. *Consider issuing guidance regarding pre-submittal conferences between district engineers and bond review; been very effective in Bridgestone MUD.*
12. *Other Areas of Interest: Expand category of items that can be funded through surplus construction funds without obtaining TCEQ approval under 293.83(c)(3) – land costs for certain plant/facility sites?*
13. *Other Areas of Interest: Need to be sure Water Utility Database info is kept up-to-date.*
14. *Other Areas of Interest: More communication from staff – pick up the phone or have pre-bar review conference.*
15. *Other Areas of Interest: Item #1 – In the definition of “combined tax rate” the city’s portion of its tax attributable to “park and recreational facilities” should be removed from the definition. Parks are open to everyone as opposed to w, s, d improvements that serve specific homes. To illustrate, a City recently purchased a golf course and converted to a public course. Five cents of the city’s tax rate is attributable to the bonds used to purchase the golf course. This course is open to everyone. Therefore, it is not “double taxation” for parks. Parks are not duplicative like w, s, d. Item #2 – Make easier to use surplus funds and escrowed funds without going through formal (and time consuming) application process. Consider 30 notice to TCEQ with right of TCEQ to require application if they feel needed.*